

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 97-411

December 12, 1997

PUBLIC UTILITIES COMMISSION
Amendment to Chapter 280 -
Common Line Provision, Section 8

ORDER TERMINATING
RULEMAKING

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY

In this Order, we terminate our proposed rulemaking.

II. BACKGROUND

On July 7, 1997, the Commission opened a rulemaking to amend section 8 of Chapter 280 of the Commission's Rules so that the common line charge paid by competitive interexchange carriers would be based on the local exchange carriers' optional calling plan retail rate (less marginal cost). We proposed this change so that competing toll service providers would be able to compete for optional calling plan customers on the merits of their own economic costs. Under the current access charge scheme, competitive interexchange carriers' optional calling plans cannot operate without losing money on each minute provided because the access rates are set relative to the local exchange carrier's (LEC) undiscounted MTS rates.

The Commission solicited comments on the proposed change. Three entities filed comments: NYNEX (now Bell Atlantic), AT&T, and the Telephone Association of Maine (TAM). No one requested a hearing. NYNEX opposed the amendment for three reasons: there is no competitive urgency to change the scheme that has been in place since the inception of Chapter 280 without competitive harm; the change is unworkable, and the Commission's stated plan to reduce access charges in Docket No. 97-319 will solve any perceived concern.

TAM also opposed the amendment. It claims the changes are unnecessary in light of the Commission's efforts to reduce access rates in Docket No. 97-319 and under 35-A M.R.S.A. § 7101-B. Second, the independent telephone companies have neither the technical ability nor contracted billing arrangements to comply with the proposed rule.

AT&T stated that the proposed rule should not be limited to plans which mirror the LECs' optional calling plans but should be broadened to encompass any optional calling plan offered by an

intraLATA toll provider. It suggests the Commission should address this issue by reducing access rates to cost and adopt additional measures if optional calling plan rates remain below the cost of service once access rates are reduced to costs.

III. DISCUSSION

In addition to the comments described above, certain events have taken place since we issued our proposed rulemaking in August 1997 that cause us to reconsider whether to adopt the amendment as proposed. First, we recently amended Chapter 280 to further reduce access rates by May 1999 as required by Maine law, 35-A M.R.S.A. § 7101-B. Docket No. 97-319, *Public Utilities Commission, Proposed Amendment of Chapter 280 to Achieve Parity with Interstate Access Rates by May 30, 1999*, Order (Dec. 3, 1997). Second, on November 7, 1997, certain interested parties filed a stipulation seeking to resolve the issues raised in our companion inquiry in Docket No. 97-319. The Commission has yet to consider that stipulation and will be doing so in the near future. One of the stipulation provisions, paragraph 4, addresses the issues raised in this rulemaking. If we accept the stipulation, Bell Atlantic has agreed to structure its upcoming access rate reductions "to effect a change in the composite rate paid by interexchange carriers for access service in a manner that will result in an effective access rate for access minutes of use associated with an IXC's optional calling plans to be similar to the access rates implicit in Bell Atlantic's pricing of its Pine Tree and CallAround services."

IV. CONCLUSION

The statutory deadline for adopting this rule is December 15, 1997. Given these recent events, we will not adopt the proposed rule change at this time. Instead, we will wait until after we consider the stipulation and after the 40% access rate reduction required by Chapter 280 takes place by May 1998, to decide whether this rule change, or one similar to it, is necessary. We will begin a new rulemaking at that time, and incorporate the record for this rulemaking, if we perceive this competitive disadvantage to still exist.

Accordingly, we

O R D E R

That Docket No. 97-411 be closed and the rulemaking terminated with no change to Chapter 280.

Dated at Augusta, Maine this 12th day of December, 1997.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Hunt